Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/25/08 has been entered.

Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant amended claims to recite specific features of the interactive voice recognition system. In response to these amendments, Gisby is no longer cited for rejection purposes. Ainslie et al has been introduces. The Ainslie et al reference teaches the use of an interactive voice response unit with speech recognition wherein verbal answers are recorded and played back to the participant. Rejections to the claims have been modified and are presented below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1, 6, 22 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdoh, US 6,564,207, in view of Peters et al, US 5,893,098, further in view of Ainslie et al, US 6,480,599.

As per **claim 1**, Abdoh teaches a communication device that initiates establishment of a communication channel between the system and a survey participant for presenting a question to the survey participant about a product, a service or a product and a service with which the survey participant has experience (column 4, lines 31-33 - control unit places calls to respondents; column 2, lines 54-65 - surveys are presented to respondents regarding health care service); a server for serving a first questioning series of core item questions developed to elicit feedback from the survey participant regarding the product service or product and service (column 3, lines 33-47 – the questionnaire is "read" to the respondent); an interactive voice recognition unit for providing said questions to the survey participant in a verbal manner (column 3, lines 33-47 – interactive voice response unit "reads" questions to respondent); a database for storing survey participant answers to said core item questions and/or said drill-down questions communicated to the interactive voice recognition unit via the communication channel established for presenting the question to the survey participant (column 3, lines 62-67 – respondent answers are stored in a database); and a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach drill-down questions presented only when a response to the associated core question meets specified criterion, nor does Abdoh teach providing a verbatim question to the participant when a response to a previous question meets a specified

criterion but no verbatim question is provided if the response does not meet the specified criterion. At the time of the invention it was well known to utilize drill-down or branched-to questions wherein questions are presented based on previously given responses. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

Further, while the combination of Abdoh and Peters et al teaches an interactive voice response unit (Abdoh - column 3, lines 33-47), the reference does not explicitly teach wherein the unit receives the responses in a verbal manner and wherein the system includes a voice recorder for digitally recording said verbatim answer given by the survey participant for audio playback to the user. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the combination each element

merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **claim 6**, Abdoh teaches initiating a process of establishing communication with a survey participant (column 4, lines 31-33 - control unit places calls to respondents); presenting multiple (including first and second) core item questions about a product, a service, or a product and a service with which the survey participant has experience to the survey participant and recording a response to the first core item question in a database (column 2, lines 54-65 - surveys are presented to respondents regarding health care service; column 3, lines 62-67 – respondent answers are stored in a database); and automatically compiling and presenting a survey report to a user, said survey report utilizing the answers collected from said survey participant for said report (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach automatically interpreting the first core item response for meeting a specified criterion and presenting drill-down questions presented only when a response to the associated core question meets specified criterion. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

The combination of Abdoh and Peters et al teaches the questionnaires are used for post-visit treatment outcomes or post-hospital discharge surveillance (Abdoh - column 2, lines 54-55) and also providing an automated remedy to the considerable lag time of mailed questionnaires, but does not explicitly teach randomly selecting a survey participant from a pool of participants who had been provided a product or service within 72 hours. Since Abdoh is obviously concerned with a faster method of data collection, once a service had been provided, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to collect data from a patient within a specified time frame. This time frame would ensure the data collected is more accurately (due to forgetfulness of detail as time passes by) and also that service provider would have a more realistic view of patient satisfaction since the time between service and response would be small.

The combination of Abdoh and Peters et al teaches an interactive voice response unit (Abdoh - column 3, lines 33-47), but does not explicitly teach wherein the unit receives the responses in a verbal manner. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the

combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **claim 22**, Abdoh teaches the communication device is an automated outgoing call device that dials a programmed series of participant telephone numbers at scheduled times (column 4, lines 31-33).

As per **claim 24**, Abdoh the questionnaires are used for post-visit treatment outcomes or post-hospital discharge surveillance (Abdoh - column 2, lines 54-55) and also providing an automated remedy to the considerable lag time of mailed questionnaires but does not explicitly teach presenting a participant with a survey including at lest one verbatim question and recording a verbal response of the participant to said verbatim question for storing in a database. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Further, since Abdoh is obviously concerned with a faster method of data collection, once a service had been provided, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to collect data from a patient within a specified time frame and to then present this data to the patient in a short time frame. These short time frame would ensure the data collected is more accurately (due to forgetfulness of detail as time passes by) and also that service provider would have a more realistic view of patient satisfaction since the time between service and response would be small.

The combination of Abdoh and Ainslie et al does not explicitly teach drill-down questions presented only when a response to the associated core question meets specified criterion, nor does the combination teach providing a verbatim question to the participant when a response to a previous question meets a specified criterion but no verbatim question is provided if the response does not meet the specified criterion. At the time of the invention it was well known to utilize drill-down or branched-to questions wherein questions are presented based on previously given reponses. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since the combination teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

5. **Claims 13-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdoh US 6,564,207, Peters et al US 5.893.098, and Ainslie et al, US 6,480,599, further in view of Mitchell et al US 5,164,981.

As per claim 13, the combination of Abdoh, Peters et al and Ainslie et al does not explicitly teach a display for presenting said questions to an agent, wherein said system monitors said answers of the participant and switches to a manual survey mode if the participant requests a transfer to said manual survey mode or said system switches to said manual survey mode in response to an evaluation of one or more of said answers of the participant or in response to a lack of an expected answer of the participant, and wherein the server serves the same question to the agent that said server would automatically present to the participant so that the agent can present said same question to the participant. Mitchell et al teaches transfer from a voice response system to an operator terminal based on decisional criteria wherein the voice response unit transfers the transaction history of what has thus far occurred to the operator terminal (column 3, lines 15-34). Since Abdoh, Peters et al and Ainslie et al are all directed toward automated survey systems, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to include the transfer of information from the interactive voice response system to the live operator based on some criteria to achieve the predictable results of providing a seamless survey presentation.

As per **claim 14,** Abdoh teaches the user is validated by said system prior to said survey result (column 3, lines 17-31 – a validation process takes place to ensure the respondent is given the correct questionnaire).

As per **claim 15**, Abdoh teaches a list of core item questions about a product, a service or a product and a service with which the survey participant has experience (column 2, lines 54-65 - surveys are presented to respondents regarding health care service); contacting a survey participant (column 4, lines 31-33 - control unit places calls to respondents); automatically presenting one or more of said core item questions to the survey participant (column 2, lines 54-65 - surveys are presented to respondents regarding health care service); automatically storing an answer of the survey participant to said one or more of the core item questions in a database (column 3, lines 62-67 – respondent answers are stored in a database); using said answers in said database for generating a survey report (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach drill-down questions, wherein each one of said drill-down questions is associated with one or more of said core item questions and is associated with one or more different ones of said drill-down questions. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

The combination of Abdoh and Peters et al teaches an interactive voice response unit (Abdoh - column 3, lines 33-47), but does not explicitly teach wherein the unit receives the

responses in a verbal manner and wherein verbal answers are played back. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

The combination of Abdoh, Peters et al and Ainslie et al does not explicitly teach a display for presenting said questions to an agent, wherein said system monitors said answers of the participant and switches to a manual survey mode if the participant requests a transfer to said manual survey mode or said system switches to said manual survey mode in response to an evaluation of one or more of said answers of the participant or in response to a lack of an expected answer of the participant, and wherein the server serves the same question to the agent that said server would automatically present to the participant so that the agent can present said same question to the participant. Mitchell et al teaches transfer from a voice response system to an operator terminal based on decisional criteria wherein the voice response unit transfers the transaction history of what has thus far occurred to the operator terminal (column 3, lines 15-34).

Since Abdoh, Peters et al and Ainslie et al are all directed toward automated survey systems, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to include the transfer of information from the interactive voice response system to the live operator based on some criteria to achieve the predictable results of providing a seamless survey presentation.

As per **claim 16**, Abdoh teaches an interactive voice response unit that "reads" the questions to respondents, the combination of Abdoh, Peters et al and Mitchell et al does not explicitly teach none of the answers are provided by using a touch-tone system. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **claim 17**, Abdoh teaches a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

As per **claim 18,** Abdoh teaches an interactive voice response unit that "reads" the questions to respondents, the combination of Abdoh, Peters et al and Mitchell et al does not explicitly teach all of the answers given by the participant are interpreted using automated voice recognition. Ainslie et al teaches an interactive voice response means and automatic speech recognition means for use in presenting questions to participants and also recording responses. Ainslie et al specifically teaches the interactive voice response means presents questions while the automatic speech recognition means captures the response wherein the interactive voice response means may playback the response to the participant for verification (column 7, lines 29-45). Since both Abdoh and Ainslie et al are directed to the use of interactive voice response units, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh with the voice recording/playback features of Ainslie since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **claims 19-21**, the combination of Abdoh, Peters et al, Ainslie et al and Mitchell et al teaches a computer system for performing the method of claims 15-18. Therefore the same rejection as applied to claims 15-18 are also applied to claim 19-21.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jl/
6/9/08
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